

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
(Pecos Division)

Energy Vault, Inc.,

Plaintiff,

v.

United Standard Electric LLC,

Defendant.

Civil Action No: 4:23-cv-00047

**DEFENDANT USE'S SECOND SUPPLEMENTAL ANSWERS TO ENERGY VAULT'S
FIRST SET OF INTERROGATORIES**

Defendant United Standard Electric, LLC ("USE"), by counsel, respectfully submits these second supplemental answers to the first set of interrogatories served by Plaintiff Energy Vault.

SECOND SUPPLEMENTAL ANSWERS TO PLAINTIFF'S INTERROGATORIES

INTERROGATORY NO. 1:

1. Identify each term of the Purchase Order You contend is not binding on the Transaction. For each term You identify, provide the logically and factually related information of (a) factual basis for your assertion for why the particular term is not binding, (b) the date of when You notified Energy Vault of your objection to the term, (c) the individual who made the objection on Your behalf, (d) whether the objection was made verbally or in writing, (e) identify by Bates label any document evidencing the objection.

ANSWER:

There are 2 Purchase orders with the same number, one dated 9/13/2022 and another with the same number, corrected after the fact, but with the same date in the document, but

was saved in our records 11/17/2022, The first one did not contain page 2-6 with Energy Vault internal terms. The corrected 2nd was supposed to be corrected by a mistake made by Energy Vault in the pricing. Energy Vault added their own terms without prior discussion with USE in the last version.

All terms included in the last version of the PO000778 *see* USE/EV002198 are not binding, USE made clear our terms from the original offer named COT2201576 *see* USE/EV2185-2191 which clearly refers to USETC001.W34 USE/EV002205-2208 & USE/EV002212 where USE terms are clearly stated. All acknowledgements from USE refer to COT2201576 *see* USE/EV2185-2191. Customer has in their possession USETC001.W34. *See* USE/EV002205-2208 & USE/EV002212.

- Nancy
- Energy Vault PO#PO000778 _ USE COT2201576R4 USE/EV002026
- Purchase Order_PO000778 USE/EV000774-779

INTERROGATORY NO. 2:

- 2. Identify the status of each Transaction Transformer at the time of Your delivery to Energy Vault. For each Transaction Transformer, provide the logically and factually related information of (a) whether You contend the Transaction Transformer is functional and operational; (b) whether you contend that the Transaction Transformer met the specifications and requirements set forth in the Purchase Order; (c) the factual basis for your contention, and (d) identify by Bates label all documents in support of Your assertion.**

ANSWER:

Out of the transformers provided, USE contends that only two (2) transformers were defective, not the thirty-eight (38) the Plaintiff is claiming.

ALL SUPPORT DOCUMENTS HAVE BEEN PROVIDED BY NANCY WITH THE DESCRIPTION OF THE WORKS PERFORMED VIA EMAIL OR IN THE DOCUMENTATION SHARED

VERIFICATION OF JUAN ESCOBAR

I, Juan Escobar swear, declare and affirm under oath and under penalties of perjury, pursuant to the laws of the United States of America, that the facts stated in the foregoing interrogatory answers are true and correct to the best of my knowledge, information and belief.

Signature /s/ Juan Escobar

Date: 09/10/2024

Name: Juan Escobar

Respectfully Submitted This 10th Day of September, 2024:

UNITED STANDARD ELECTRIC, LLC

By: /s/ Denis Dennis
Counsel

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Admitted Pro Hac Vice

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of September 2024, the foregoing Defendant United Standard Electric, LLC's, Second Supplemental Answers to Plaintiff's First Set of Interrogatories was sent by first-class mail, properly addressed and postage prepaid, to:

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